

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

|                       |   |                               |
|-----------------------|---|-------------------------------|
| ISAAC WILLIAM BAKER   | : | CIVIL ACTION NO. 4:14-cv-1109 |
|                       | : |                               |
| Plaintiff             | : | (Judge Kane)                  |
|                       | : | (Magistrate Judge Carlson)    |
| v.                    | : |                               |
|                       | : |                               |
| MICROBILT CORPORATION | : |                               |
|                       | : |                               |
| Defendant             | : |                               |

**ORDER**

Before the court in the captioned action is a October 3, 2014 Report and Recommendation of the Magistrate Judge. No timely objections have been filed.

Accordingly, upon review of the record and the applicable law, **IT IS HEREBY ORDERED THAT:**

1) The Court adopts the Report and Recommendation of Magistrate Judge Carlson.

2) The Defendant's motion to dismiss (Doc. No. 5), is **GRANTED in part**, and **DENIED in part**.

3) Pursuant to Rule 12(b)(5), the Court finds that proper service of process was not made, but in lieu of dismissal of this action, the flawed service of process is quashed and Plaintiff is directed to make proper service within 45 days of the date of this Order.

4) The Defendant's motion to dismiss the attorney's fees claim in the complaint is **DENIED**.

5) The motion to dismiss the prayer for injunctive relief is **GRANTED**, but the prayer for relief is dismissed without prejudice to the Plaintiff endeavoring to articulate a

more clearly defined and legally defensible claim for injunctive relief in any amended complaint. The Plaintiff is instructed to properly serve either the original complaint or any amended complaint contained such a prayer for relief upon the Defendant with 45 days of the date of the Order.

s/ Yvette Kane

Yvette Kane, District Judge  
United States District Court  
Middle District of Pennsylvania

Dated: November 3, 2014.